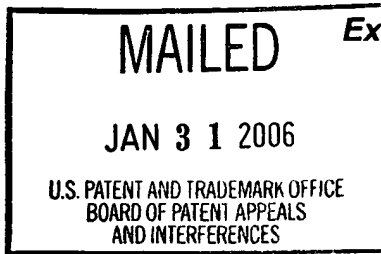


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte TEDDY KOSOGLOU, RUDYARD J. RESS,
JOHN T. STRONY, ENRICO P. VELTRI
and WILLIAM HAUER

Application No. 10/057,339

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on November 23, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

Information Disclosure Statements (IDSS) were filed August 26, 2002, August 23, 2002 and August 21, 2002. It is not apparent from the record that the examiner properly considered the IDSS submitted nor notified appellants of why their submissions did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

The abstracts, but not the complete articles of the following prior art references cited on page 3 of the September 9, 2005 Examiner's Answer, were located in the Image File Wrapper (IFW):

Chobanian, Aram. V., "Antiatherogenic Effect of Captopril in the Watanabe Heritable Hyperlipidemic Rabbit," Hypertension 1990, 15(3), pp. 327-331.

Schaarmann, G., "Influence of Soluble Dietary Fibre on the Faecal Excretion of Tocopherol and Blood Lipids in Women" Nutrition Research, 1999, 19(5) pp. 689-695.

Myasnikov, A.L., "Influence of Certain Vitamins on Cholesterolemia and the Development of Experimental Atherosclerosis," Klin. Med. U.S.S.R. 1950, 28(2), pp. 3-10.

Lelek, I., "Effect of Essential Fatty Acids on the Plasma Lipoprotein Fractions in Experimental Atherosclerosis," Orvosi Hetilap 1960, 101, pp. 1735-1738.

The complete articles of the above listed references are needed to process the appeal properly.

A review of the file indicates that Examiner's Answer mailed September 9, 2005 followed the format set forth in 37 CFR § 1.192(c). However, 37 CFR § 1.192 was abolished on September 13, 2004, and replaced by 37 CFR § 41.37(c). Accordingly, the Examiner's Answer of September 9, 2005 does not comply with the headings set forth in the new rules under 37 CFR § 41.37(c).

Accordingly, it is

ORDERED that the application is returned to the Examiner to

- 1) consider the above listed IDSS,
- 2) give written notification to appellants regarding the result of the examiner's consideration,

Application 10/057,339

4) issue a revised Examiner's Answer in compliance with the new rules effective September 13, 2004 and

5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



CRAIG R. FEINBERG
Program and Resource Administrator
(571) 272-9797

CRF/eld

cc. Schering-Plough Corporation
Patent Department (K-6-1, 1990)
2000 Galloping Hill Road
Kenilworth, NJ 07033-0530